

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8444 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BADELAL RAJU RAMOLKHAN KURMI PATEL

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner
Mr U A Trivedi, App for respondents

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 26/11/96

ORAL JUDGEMENT

By way of this Special Civil Application, the petitioner has challenged the order of detention dated 22.7.1996. It appears from the grounds of detention that there are three cases registered against the petitioner for offences punishable under the Indian Penal Code falling in Chapter XVII and under the provisions of the Arms Act. The third case is registered at Bapunagar Police Station in the year 1995. It is stated that after

the petitioner was released on bail in June, 1996, another case being C.R. No.254/96 was registered at Maninagar Police Station for offences punishable under section 135(1) of the Bombay Police Act.

2. I have heard the learned Advocate for the petitioner and the learned APP for the respondents. It is contended by the learned Advocate for the petitioner that the petitioner is facing trial for the offences registered against him and that the case No.254/96 has been falsely registered against the petitioner with a view to detain him under the provisions of Gujarat Prevention of Anti-social Activities Act, 1985 (for short 'the PASA Act').

3. No reply to the petition has been filed. However, the application is opposed by the learned APP. He submits that the petitioner is a 'dangerous person'. He has invited my attention to the statements of witnesses which shows that the petitioner was moving with a dagger and has also threatened the merchants.

4. I have considered the rival contentions and statements of the witnesses referred to by the learned APP. The allegation appears to be of general nature and on the basis of the materials available on record, it cannot be said that the petitioner is habitually indulge in the activities mentioned under the provisions of section 2(c) and section 3 of the PASA Act. There is nothing to show that the activities of the petitioner are of a nature which may disturb the public order.

5. In view of the aforesaid, this Special Civil Application is allowed. The impugned order dated 22.7.1996 is quashed and set aside and the petitioner-detenu shall be directed to be released forthwith, if not required in any other case. Rule made absolute accordingly.

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